



General Assembly

February Session, 2008

Raised Bill No. 5151

LCO No. 150

00150_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

***AN ACT PROHIBITING THE USE OF CREDIT RATINGS TO SET
MOTOR VEHICLE INSURANCE PREMIUMS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-686 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 The following standards, methods and criteria shall apply to the
4 making and use of rates pertaining to personal risk insurance:

5 (a) Rates shall not be excessive, inadequate or unfairly
6 discriminatory.

7 (1) A rate in a competitive market is not excessive. A rate in a
8 noncompetitive market including a rate for insurance provided
9 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is
10 unreasonably high for the insurance provided.

11 (2) No rate shall be held inadequate unless (A) it is unreasonably
12 low for the insurance provided, and (B) continued use of it would
13 endanger solvency of the insurer, or unless (C) such rate is
14 unreasonably low for the insurance provided and the use of such rate

15 by the insurer using same has, or, if continued will have, the effect of
16 destroying competition or creating a monopoly.

17 (b) In determining whether rates comply with the excessiveness
18 standard in a noncompetitive market under subdivision (1) of
19 subsection (a) of this section, the inadequacy standard under
20 subdivision (2) of subsection (a) of this section and the requirement
21 that rates not be unfairly discriminatory, the following criteria shall
22 apply:

23 (1) Consideration may be given, to the extent possible, to past and
24 prospective loss experience within and outside this state, to
25 conflagration and catastrophe hazards, to a reasonable margin for
26 underwriting profit and contingencies, to past and prospective
27 expenses both country-wide and those specially applicable to this
28 state, to investment income earned or realized by insurers both from
29 their unearned premium and loss reserve funds, and to all other
30 factors, including judgment factors, deemed relevant within and
31 outside this state and in the case of fire insurance rates, consideration
32 may be given to the experience of the fire insurance business during
33 the most recent five-year period for which such experience is available.
34 Consideration may be given in the making and use of rates to
35 dividends, savings or unabsorbed premium deposits allowed or
36 returned by insurers to their policyholders, members or subscribers.

37 (2) The systems of expense provisions included in the rates for use
38 by an insurer or group of insurers may differ from those of other
39 insurers or groups of insurers to reflect the operating methods of any
40 such insurer or group with respect to any kind of insurance, or with
41 respect to any subdivision or combination thereof.

42 (3) Risks may be grouped by classifications for the establishment of
43 rates and minimum premiums, provided that with respect to private
44 passenger nonfleet automobile insurance, any change in territorial
45 classifications shall be subject to prior approval by the Insurance
46 Commissioner, and provided no surcharge on any motor vehicle

47 liability or physical damage insurance premium may be assigned for
48 (A) any accident involving only property damage of one thousand
49 dollars or less, or (B) the first accident involving only property damage
50 of more than one thousand dollars which would otherwise result in a
51 surcharge to the policy of the insured, within the experience period set
52 forth in the insurer's safe driver classification plan, or (C) any violation
53 of section 14-219 unless such violation results in the suspension or
54 revocation of the operator's license under section 14-111b, or (D) less
55 than three violations of section 14-218a within any one-year period, or
56 (E) any accident caused by an operator other than the named insured,
57 a relative residing in the named insured's household, or a person who
58 customarily operates the insured vehicle, or (F) the first or second
59 accident within the current experience period in relation to which the
60 insured was not convicted of a moving traffic violation and was not at
61 fault, or (G) any motor vehicle infraction. Subparagraph (G) of this
62 subdivision shall not be applicable to any plan established pursuant to
63 section 38a-329. Classification rates may be modified to produce rates
64 for individual risks in accordance with rating plans which provide for
65 recognition of variations in hazards or expense provisions or both.
66 Such rating plans may include application of the judgment of the
67 insurer and may measure any differences among risks that can be
68 demonstrated to have a probable effect upon losses or expenses.

69 (4) Each rating plan shall establish appropriate eligibility criteria for
70 determining significant risks which are to qualify under the plan.
71 Rating plans which comply with the provisions of this subdivision
72 shall be deemed to produce rates which are not unfairly
73 discriminatory.

74 (c) Notwithstanding the provisions of subsections (a) and (b) of this
75 section, no rate shall include any adjustment designed to recover
76 underwriting or operating losses incurred out-of-state.

77 (d) Notwithstanding the provisions of subsections (a) and (b) of this
78 section, no rate for private passenger nonfleet automobile vehicles

79 shall be based, in whole or in part, on information contained in an
80 applicant's credit history or credit rating.

81 [(d)] (e) The commissioner may adopt regulations in accordance
82 with the provisions of chapter 54 concerning rating plans to effectuate
83 the provisions of this section.

84 Sec. 2. Section 38a-358 of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective October 1, 2008*):

86 The declination, cancellation or nonrenewal of a policy for private
87 passenger nonfleet automobile insurance is prohibited if the
88 declination, cancellation or nonrenewal is based: (1) On the race,
89 religion, nationality or ethnicity of the applicant or named insured; (2)
90 solely on the lawful occupation or profession of the applicant or
91 named insured, except that this provision shall not apply to any
92 insurer which limits its market to one lawful occupation or profession
93 or to several related lawful occupations or professions; (3) on the
94 principal location of the insured motor vehicle unless such decision is
95 for a business purpose which is not a mere pretext for unfair
96 discrimination; (4) solely on the age, sex or marital status of an
97 applicant or an insured, except that this subdivision shall not apply to
98 an insurer in an insurer group if one or more other insurers in the
99 group would not decline an application for essentially similar coverage
100 based upon such reasons; (5) on the fact that the applicant or named
101 insured previously obtained insurance coverage through a residual
102 market; (6) on the fact that another insurer previously declined to
103 insure the applicant or terminated an existing policy in which the
104 applicant was the named insured; [or] (7) on the first or second
105 accident within the current experience period in relation to which the
106 applicant or insured was not convicted of a moving traffic violation
107 and was not at fault; or (8) in whole or in part, on information
108 contained in an applicant's credit history or credit rating.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	38a-686
Sec. 2	<i>October 1, 2008</i>	38a-358

Statement of Purpose:

To prohibit the use of an applicant's credit rating or credit history as a factor in setting motor vehicle insurance premiums.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]